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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,933	12/18/2000	James Steven Reid	07306-021001	4882

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EXAMINER	
TURNER, SHARON L	
ART UNIT	PAPER NUMBER
1647	11

DATE MAILED: 03/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/739,933	Applicant(s) Fallon et al
	Examiner Sharon L. Turner, Ph.D.	Art Unit 1647

-- The MAILING DATE of this communication app ars on the cover sheet with th correspond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 1-23-02

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-62 is/are pending in the applica

4a) Of the above, claim(s) _____ is/are withdrawn from considera

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims 1-62 are subject to restriction and/or election requirem

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

DETAILED ACTION

1. Claims 1-62 are pending.

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-33 drawn to a method for attracting a glial cell progenitor with EGF/ErbB receptor binding agent, classified for example in class 530, subclass 351.

II. Claims 34-53, 61 drawn to a method of ameliorating a neurological deficit by stimulating proliferation with a compound that binds EGF, classified for example in class 424, subclass 85.1.

III. Claims 54-56, 62 drawn to a method of ameliorating a neurological deficit wherein the compound is not EGF, classified for example in class 424, subclass 88.2.

IV. Claims 57-60 drawn to a pharmaceutical composition, classified for example in class 530, subclass 350.

3. The inventions are distinct, each from the other because of the following reasons:

4. Inventions I-III are related as processes. The processes are distinct each from the other as the processes differ in reagents, compounds, steps, functions and effects.

5. Inventions IV and I-III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the composition can be practiced with

alternative peptides and the products as claimed can be used alternatively in a method of making antibodies, a method of screening compounds, and a method for detecting compositions.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

7. Because these inventions are distinct for the reasons given above and the search required for any Group is not required for any other Group, restriction for examination purposes as indicated is proper.

8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

9. This application contains claims directed to the following patentably distinct species of the claimed invention:

1. First compounds selected from A) Amphiregulin, B) Betacellulin, C) Epiregulin, D) Heparin-binding EGF-like growth factor, E) Schwannoma-derived growth factor, F) Myxomavirus growth factor, F) Shope fibroma virus growth factor, G) Teratocarcinoma-derived growth factor-1, H) Transforming growth factor alpha, I) vaccinia growth factor, J) Heregulin, K) Neuregulin-3 .

2. Second compounds selected from A) compounds which increase the expression of fibronectin, B) compounds which increase the expression of laminin, C) compounds which

inhibit a naturally occurring signal that would otherwise inhibit migration, D) neurochemical blocking compounds, E) retinoic acid compounds and F) brain-derived neurotrophic compounds.

3. Neurological deficits selected from A) a neurodegenerative disease, B) a neurotoxic injury, C) a disease of the spinal cord, D) an infection, E) a developmental disorder, F) an inflammatory disease, G) an autoimmune disease, H) a disorder affecting vision, I) a disorder affecting audition, J) a disorder affecting somatosensation, K) a disorder affecting olfaction, L) a traumatic injury, M) a demyelinating disease, N) Alzheimer's Disease, O) Huntington's Disease, P) Parkinson's Disease, Q) an ischemia, and R) a stroke.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for each of the 3 species groups, (First compound, Second compound and Neurological deficit), as noted above for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 34, 54, 57 and 61-62 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species of species groups 1-3 that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Turner, Ph.D. whose telephone number is (703) 308-0056. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (703) 308-4623.

Sharon L. Turner, Ph.D.
March 25, 2002

GARY L. KUNZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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No.	Doccode	Number of pages
1	A...	1
2	REM	2
3	LET.	2

Total number of pages: 5

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